

**USDA Forest Service
Rocky Mountain Region
Arapaho and Roosevelt National Forests and Pawnee National Grassland**

Draft Record of Decision for the Pawnee National Grassland Oil and Gas Leasing Analysis

**Located within Weld County, Colorado
December 2014**



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1. Introduction

This Record of Decision (ROD) documents a draft decision for the Forest Service's leasing analysis for the Pawnee National Grassland (PNG). This ROD determines whether unleased lands on the PNG will be available for oil and gas leasing and what stipulations will be required in future leases. This ROD does not authorize any on the ground oil and gas development; therefore, there are no direct environmental impacts. However, it does determine whether an oil and gas lease could be sold.¹ The ROD is based on information and analysis in the PNG Oil and Gas Leasing Final Environmental Impact Statement (FEIS) and public involvement.

This ROD will replace the availability and stipulation determinations made as part of the ROD for the 1997 Arapaho and Roosevelt National Forests and Pawnee National Grassland Forest Plan Revision (1997 ROD). The 1997 ROD designates nearly all lands on the PNG available for oil and gas leasing. It also included several stipulations for surface resources.

2. Decision and Reasons for the Decision

Decision

It is my decision to select Alternative 3-No Surface Occupancy Alternative (NSO Alternative). This decision will continue to make nearly all federal unleased lands on the PNG available for oil and gas leasing—approximately 100,000 acres. The only lands unavailable for leasing on the PNG will be the Pawnee Buttes and Crow Valley Campground areas—2,980 acres.

This decision will require a No Surface Occupancy Stipulation (NSO Stipulation) be included on any future federal leases on these lands (see Attachment A). The NSO stipulation will prohibit wells and well pads from being located on these lands.

Rationale for Decision

I made this decision after considering information in the FEIS and public involvement. There are two primary reasons why I decided to select the NSO Alternative.

1. The NSO Alternative is environmentally preferable and has the least risk of adverse environmental impacts.

¹ Prior to any development of an oil and gas lease, the leaseholder must submit an application for permit to drill (APD) for review and approval by the BLM. This approval requires a site specific decision under the National Environmental Policy Act. In general, an APD includes details on drilling and surface use of the leasehold.

The FEIS describes environmental impacts and risks from oil and gas development. These include impacts to wildlife, scenery, heritage, fisheries, and recreation. Oil and gas development also poses risk of soil, surface water, and groundwater contamination. The magnitude of these impacts and risks to the PNG primarily depends on the amount of surface disturbance, number of wells and well pads, and where they are located.²

I recognize that GHGs are a consequence of oil and gas production, and developing these leases will increase GHGs and their social cost. However, this increase is negligible in the context of mineral development in the Royal Gorge Area³ and inconsequential in the context of global emissions⁴. In addition, reducing GHGs by not leasing will result in greater risk of other environmental impacts because it increases surface disturbance, wells, and well pads on adjacent lands 10% and 50% more than leasing under an NSO stipulation. I do not feel the reduction in GHGs justifies this risk.

The NSO Alternative will have the least surface disturbance, wells, and well pads on the PNG and adjacent lands. It is environmentally preferable to the No Action Alternative because it prohibits surface disturbance, wells, and well pads on the unleased federal mineral estate on the PNG. It is environmentally preferable to the No Leasing Alternative because it has less surface disturbance, wells, and well pads on adjacent lands. For these reasons, the NSO Alternative has the least environmental impacts or risk of any alternative considered.

2. The NSO Alternative best achieves the leasable minerals objectives in the Mineral Leasing Act, Forest Service minerals policy, and the Forest Plan.

The Mineral Leasing Act, Forest Service Minerals Policy, and the Forest Plan all include objectives for developing leasable minerals. The essence of these objectives is to foster and encourage mineral development on National Forest System lands in an ecologically sound manner.

The NSO Alternative satisfies this objective by designating nearly all of the unleased federal mineral estate on the PNG as available for lease. Even though leases will not allow surface occupancy, the FEIS forecasts that, using horizontal drilling, 100% of the recoverable oil and gas can be extracted. Because the NSO Alternative will result in the least surface disturbance, wells, and well pads and 100% of the oil and gas can be recovered, it best meets leasable minerals objectives.

² The environmental impacts of oil and gas development are not strictly limited to impacts from just the well and well pad. For example, there are ancillary impacts from traffic to the well sites, emissions, road development, and pipelines. However, the extent of these impacts is primarily a function of the numbers of wells and well pads. For this reason, the ROD focuses on the location and number of wells and well pads as indicators of environmental impacts and risk.

³ *Reasonably Foreseeable Development Scenario for Oil and Gas (2012)*, BLM-Royal Gorge Field Office, CO

⁴ The Environmental Protection Agency (EPA) provides current summaries of global emissions by country and source, including energy supply at <http://www.epa.gov/climatechange/ghgemissions/global.html>

3. Public Involvement Conducted

Public involvement for the FEIS included the following:

- A Notice of Intent to prepare an EIS was published in the Federal Register on April 1, 2013. In addition, interested and affected individuals, organizations, and agencies were sent a scoping letter describing the project and requesting comment. Approximately 2,600 comments were received.
- A Notice of Availability of the DEIS was published in the Federal Register on September 5, 2014 requesting comment on the DEIS. In addition, interested and affected individuals, organizations, and agencies were sent notification of the comment period and the availability of the DEIS for review. Approximately 2,500 comments were received during the comment period. The comment period ended on October 20, 2014.

The issues identified from public involvement and responses to comments are included in the Response to Comments Section of the FEIS.

4. Alternatives Considered

The FEIS considered two other alternatives in detail. Seven additional alternatives were also considered, but dismissed from detailed study.⁵ A description of the alternatives considered in detail and the reasons they were not selected are described below.

No Leasing Alternative

The No Leasing Alternative designates all of the unleased federal mineral estate on the PNG unavailable for leasing. Because these lands would be unavailable for lease, there are no lease stipulations for this alternative.

This alternative was not selected for two main reasons. First, it would result in the greatest number of wells and well pads of any alternative considered. While this alternative is similar to the NSO Alternative because no wells or well pads would be located on the unleased federal mineral estate on the PNG, it results in the greatest development on adjacent lands.

The FEIS projects that the No Leasing Alternative could result in anywhere between 10% - 50% more surface disturbance, wells, and well pads than the NSO Alternative. This is because avoiding the federal mineral estate creates development inefficiencies that require additional wells and well pads.⁶ Although environmental impacts and risk would be similar

⁵ See FEIS pp. 30-32 for discussion of the alternatives dismissed from detailed study and the reasons they were dismissed.

⁶ See FEIS pp. 41-48 for a discussion on why the No Leasing Alternative results in more surface disturbance, wells, and well pads than leasing.

to the NSO Alternative on the federally unleased lands on the PNG⁷, it needlessly increases environmental impacts and risks on adjacent lands.

Second, this alternative is wasteful and does not meet the objectives of the Mineral Leasing Act, the Forest Service minerals policy, and the Forest Plan. Because the No Leasing Alternative will prohibit leasing any new federal oil and gas leases on the PNG, the oil and gas within these leases will be lost. The FEIS estimates this loss at approximately 412 million barrels of oil and 815 thousand cubic feet (MCF) of gas. While it may make sense to prohibit leasing if it reduces environmental impacts or risk, the No Leasing Alternative increases environmental impacts above the NSO Alternative and results in a significant loss of developable energy.

No Action Alternative

The No Action Alternative would continue the availability and stipulation determinations in the 1997 Forest Plan. This alternative designates nearly all lands on the PNG available for leasing under a suite of stipulations for resource protection. These stipulations include a mixture of timing limitations, controlled surface use, and no surface occupancy.⁸

The No Action Alternative was not selected because it does not protect surface resources on the PNG as well as the NSO Alternative. While the stipulations included in the 1997 provide some protections for resources, there is greater risk of environmental impacts than under the NSO Alternative because it allows for surface occupancy. In addition, because the recoverability of oil and gas under the No Action Alternative is the same as under the NSO Alternative, there is no reason to accept the increased risk of environmental impacts.

5. Findings Required by Other Laws

National Forest Management Act

The National Forest Management Act requires me to ensure that activities carried out on the PNG are consistent with the 1997 Forest Plan. My decision is consistent with the 1997 Forest Plan goals, objectives, standards, guidelines, and management area direction for the PNG.

⁷ The FEIS recognizes that oil and gas development on lands adjacent to the PNG has the potential to impact resources within the PNG. It also recognizes that the greater the development on adjacent lands, the greater the risk of environmental impacts to the PNG. Because No Leasing results in more oil and gas development than the NSO Alternative, it is expected that the risk of impacts to both the PNG and adjacent lands are greater under the No Leasing Alternative than the NSO Alternative. See FEIS pp. 41-48.

⁸ See FEIS Appendix B for a description of the stipulations determined under the 1997 Forest Plan.

Clean Air Act

The Clean Air Act (CAA) gives the Environmental Protection Agency (EPA) the authority to set limits on certain air pollutants. It also gives EPA the authority to limit emissions of air pollutants coming from certain sources and the EPA recently adopted New Source Performance Standards specific to the oil and gas industry. A leasing decision does not authorize or allow any oil and gas development or emissions and, therefore, does not cause or contribute to violation of any CAA standards or require a conformity determination.

However, I recognize that federal agencies must document consistency with the CAA before an application for Permit to Drill (APD) can be approved allowing oil and gas development. It is expected that when Bureau of Land Management (BLM) receives an APD, emissions can be estimated and modeled against CAA standards. In addition, APDs submitted in non-attainment areas or zones will be subject to a conformity determination before they can be approved. BLM's commitment to CAA analysis during APD review is included in their statewide lease notice regarding air quality.

National Historic Preservation Act

The Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the potential effects of a Preferred Alternative on historic, architectural, or archaeological resources that are eligible for inclusion on the National Register of Historic Places and to afford the President's Advisory Council on Historic Preservation an opportunity to comment. Consultation with the Colorado State Historic Preservation Office will be completed before any APD will be approved authorizing federal oil and gas development.

Endangered Species Act (ESA)

No federally threatened or endangered species are known or suspected to occur within the PNG. However, the FEIS recognizes that there are threatened and endangered species that could be impacted by water depletions in the South Platte Basin (see FEIS pp. 111 and 122-123). These species include; whooping crane, piping plover, least tern, and pallid sturgeon. The U.S. Fish and Wildlife Service developed the Platte River Recovery Implementation Program to address these water depletion impacts.⁹ The purpose of this program is to provide ESA compliance for water users in the Platte River basin upstream of the Loup River confluence. The program establishes consultation procedures for any water depletions in the South Platte Basin above "de minimis" thresholds. Because this ROD does not result in any water depletion, consultation under the program is not timely.

⁹ An overview of the Platte River Recovery Implementation Program is available at: <http://www.fws.gov/platteriver/>

However, it is expected that consultation under this program may occur during review of any APD—when water sources and quantity are known. If water depletions exceeding de minimis thresholds are proposed in the South Platte Basin, it is expected that consultation under the Platte River Recovery Implementation Program will be completed before any APD is approved.

Mining and Minerals Policy Act of 1970

The Federal Government's policy for minerals resource management is expressed in the Mining and Minerals Policy Act of 1970, "foster and encourage private enterprise in the development of economically sound and stable industries and in the orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs." My decision best meets this policy because it designates nearly all of the PNG as available for leasing. While it includes a no surface occupancy stipulation on these lands, this stipulation does not reduce the recoverability of oil and gas resources. In addition, my decision will have the least environmental impacts of any alternatives within my decision space. In short, my decision allows for viable oil and gas development with the least environmental impacts.

6. Environmentally Preferable Alternative

The NSO Alternative is the environmentally preferable alternative. This is because it will result in no surface disturbance, wells, or well pads on the PNG and the fewest on adjacent lands.

7. Implementation Date

Implementation will occur under the Final Record of Decision (ROD); the Final ROD will be issued following the close of the Objection resolution period (§218.12(a)). If no objection is received, implementation of the decision may begin on, but not before, the 5th business day following the close of the objection filing period (36 CFR 218.12(c)(2)). If an objection is received, implementation may occur immediately following the close of the objection resolution period (36 CFR 218.12(a)).

8. Administrative Review or Objection Opportunities

This decision is subject to objection pursuant to Federal regulations at 36 CFR 218. Objections, including attachments, must be in writing and filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the Objection Reviewing Officer (36 CFR 218.8) within 45 days following the date of publication of a legal notice announcing the Opportunity to Object in the Fort Collins Coloradoan. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an

objection (36 CFR 218.5 (c)). Those wishing to object should not rely upon dates or timeframe information provided by any other source.

Objections will only be accepted from those who have previously submitted specific written comments during a designated opportunity for public comment (36 CFR 218.5(a)). Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities to comment (36 CFR 218.8 (c)). Objections must meet content requirements of 36 CFR 218.8(d) and include:

1. Objector's name and address as defined in §218.2, with a telephone number, if available;
2. Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);
3. When multiple names are listed on an objection, identification of the lead objector as defined in §218.2. Verification of the identity of the lead objector must be provided upon request or the reviewing officer will designate a lead objector as provided in §218.5(d);
4. The name of the proposed project, the name and title of the responsible official, and the name(s) of the national forest(s) and/or ranger district(s) on which the proposed project will be implemented;
5. A description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project; if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation, or policy; suggested remedies that would resolve the objection; supporting reasons for the reviewing officer to consider; and
6. A statement that demonstrates the connection between prior specific written comments on the particular proposed project or activity and the content of the objection, unless the objection concerns an issue that arose after the designated opportunity(ies) for comment (see paragraph (c) of this section).

The objection shall be sent to:

USDA Forest Service, Region 2 Rocky Mountain Region
Attn.: Objection Reviewing Officer
740 Simms Street Golden, CO
80401-4720

Hours: Mon-Fri 8:00 a.m. – 4:30 p.m., excluding holidays Fax: 303-275-5134 Email: r02admin_review@fs.fed.us (Acceptable formats for electronic objections are: rtf, pdf, doc, or docx)

9. Contact Person

For additional information concerning this decision or the Forest Service objection process, contact:

Tom Ford, Arapaho Roosevelt National Forest and Pawnee National Grassland
2150 Centre Avenue, Building E
Fort Collins, CO 80526
970-295-6761
tford@fs.fed.us

Attachment A

NSO Stipulation

NO SURFACE OCCUPANCY STIPULATION

Surface Resource Protection and Ecological Integrity

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

See Pawnee National Grassland Oil and Gas Leasing Decision Map.

For the purpose of: Maintaining the ecological integrity of terrestrial and aquatic ecosystems and watersheds on the Pawnee National Grassland. Maintaining the integrity of other surface resources on the Pawnee National Grassland; including, aesthetic values, cultural and heritage resources, fish and wildlife species, grazing and rangelands, recreation settings and opportunities, riparian areas, scenery, soil, surface and subsurface water quality, and viewsheds.

Waivers, exceptions, or modifications: Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest plan, 36 CFR 228.104, and other applicable regulations and policies. BLM may not grant any waiver, exception, or modification to this stipulation without Forest Service consent under 36 CFR 228.104.